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## The Commonwealth of Massachusetts

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## 4/9 2 SENATE COMMITTEE FILES DSS RECOMMENDATIONS

On May 23, 1995 Sen. Thomas C. Norton (D-Fall River) and Sen. Therese Murray (D-Plymouth) filed Senate Order 1896, instructing the Senate Committee on Post Audit and Oversight to conduct an investigation of the Department of Social Services. This order was unanimously adopted by the full Senate. A series of public hearings relative to the Department's foster care policies was convened during the months of July and August. An in-depth review of the Department followed.

The Senate Committee on Post Audit and Oversight today released its preliminary findings and recommendations relative to Senate Order 1896. A detailed list of the Committee's findings and recommendations is attached.

"The Committee is indebted to the many individuals and organizations who graciously shared their time and expertise with all of us over the past few months," said Sen. Thomas C. Norton, chairman of the Senate Committee. "This is not the end of our involvement with this issue. We will be bringing the Commissioner, the secretary of Health and Human Services, and the secretary of Administration and Finance before the Committee one more time before we release our legislative package on the Department of Social Services."



Finding: The Committee finds that the Department of Social Services is unable to provide stability and continuity of care in the lives of its foster children. Consequently, the foster care system often provides less stability than was provided by the dysfunctional family from which the child was removed. For example, the Department's own data show that, as of July 1995, 20 percent of the children in placement have experienced three changes in residence since they were first taken into custody; forty percent of all adolescents have experienced three changes in placement.

Finding: The Committee finds that interagency coordination of children's care and protection issues is often disjointed and ineffective. Consequently, children placed in the care and protection of the state fail to thrive. These children, their biological families and their foster families are often further injured by the lack of coordination of effort between the state departments of Social Services, Public Health, Mental Health, and Youth Services.

Finding: The Committee finds that there is no evidence that the Department of Social Services, the Department of Mental Health, or the Department of Public Health coordinate their budget preparations or jointly identify the service needs of the children in families who are clients of the Department of Social Services. The consequence of this failure is that departmental workers are frequently unable to find appropriate and relevant services to either minimally service the family preservation goals of the Commonwealth or the foster families which offer shelter to these children. Both goals are unmet and both populations are misserved.

Finding: The Committee finds that the Department of Social Services' foster care system is seriously overburdened, partly because social workers do not have other, more appropriate placement options for children requiring out-of-home placement. Moreover, children are sometimes removed from their homes because there are insufficient in-home support systems available that would keep children out of the foster care system entirely.

Finding: The Committee finds that the Department of Social Services' area directors have not played a significant and visible role in identifying and securing community resources for child welfare.

Finding: The Committee finds that the Department of Social Services has been unable to identify a variety of qualified foster care settings for its diverse clientele. The Committee finds that the most effective way of recruiting foster care parents is



through current foster care parents in the local community, as well as through the efforts of home finder social workers at the area office level.

Finding: The Committee finds that much of the restricted foster care provided by the Department of Social Services is through so-called "kinship care" providers, generally made up of friends and relatives of the child in custody. These kinship care providers, however, are not required to complete formalized training even though, most often, the children remain in their care for prolonged periods of time. The Committee finds that kinship care foster children present with the same complexities as other foster children.

Finding: The Committee finds that the Department of Social Services' reliance on the foster care system as a principle solution to the CHINS population is misplaced. Little attention has been given to establishing small group placements, despite evidence supporting the creation of local placement facilities.

Finding: The Committee finds little evidence that the Department of Social Services is capable of serving the needs of adolescents, especially the group requiring service under the CHINS statute. The Committee finds that a sense of hopelessness and defeat permeates the ranks of the Department as it tries to fulfill its mission to serve the state's troubled adolescents. This is a most serious concern as two-thirds of the youths under the jurisdiction of the Department of Youth Services for criminal behaviors have been under the care and protection of the Department of Social Services.

Finding: The Committee finds that a thorough and complete investigation at the outset of state intervention is essential. The Committee also finds, however, that while many of the cases precipitating Departmental intervention involve allegations of serious physical and sexual abuse, the Department has no requirement that such investigations be conducted by persons possessing adequate forensic skills.

Finding: The Committee finds that the cases which are presented to the Department of Social Service are of such complexity that its social workers are frequently unable to make adequate assessments of a family's service needs without the assistance of other skilled professionals.

Finding: The Committee finds that the Department of Social Services provides only limited systematic oversight of the determinations made by the individuals



screening reports of abuse and neglect. The Department makes no effort to systematically review the decisions that are made by screeners who are either directly employed by the Commonwealth or by private contractors who provide such services on evenings, weekends and holidays.

Finding: The Committee finds that the Department of Social Services' use of the Criminal Offender Record Information System (CORI) is unnecessarily restricted and poses significant risk to the child welfare system. Judicial interpretation of the law allows for much broader access to court-maintained records of criminal history than is currently utilized by the Department.

Finding: The Committee finds that the progress of child welfare cases through the judicial system is often seriously delayed because of bureaucratic and administrative problems.

Finding: The Committee agrees that the single most significant problem in managing child welfare proceedings expeditiously in courts, as reported by the Supreme Judicial Court Special Commission on Juvenile Justice in June 1994, is that cases lack the benefit of a single judge imposing uniform procedures and assuming the responsibility for keeping these cases on track from filing to conclusion.

Finding: The Committee finds that legal counsel assigned to children in care and protection cases is often inadequate at the adjudicatory stage. Attorneys for the children are often unprepared, ask for needless continuances, and do not independently assess the needs or the wishes of the child.

Finding: The Committee finds that legal counsel assigned to care and protection cases rarely participate in the Department's six-month foster care reviews despite the fact that such reviews are designed to determine whether the best interest of the child is being served by the placement, and whether the child's care plan is being carried out. The Committee further finds that the presence of counsel at these reviews would help avert inappropriate placements.

Finding: The Committee finds that, in many cases, the development of a service plan by the Department of Social Service is made without coordination with the managed care system's responsible for approving the payment for services.



Finding: The Committee finds that the elimination of eighty-five percent of the Department of Social Services' nursing positions has, in addition to eliminating other critical services, seriously impeded social workers as they attempt to deal, ex post facto, with the managed care system.

Finding: The Committee finds that the educational system represents one of the few areas of stability and continuity in the lives of many foster children. Unfortunately, the Department, because of the limitations of the present foster care system, has been unable to preserve this important social and cultural network for many of the children entrusted to it.

Finding: The Committee finds that some school systems throughout the Commonwealth explicitly attempt to discourage the presence of foster care in their communities because of concerns about the perceived costs associated with the educational needs of foster children.

Finding: The Committee finds that the Commonwealth does not fully fund educational services for foster children who are placed outside of their community of origin.

Finding: The Committee finds that the Department's inability to maintain continuity of placement for children with special needs diminishes the children's ability to gain access to their needed educational services.

Finding: The Committee finds that the caseloads of Department of Social Services social workers continue to be too high. Despite assurances from the Commissioner to the contrary, many social workers continue to carry caseloads in excess of twenty-four per worker. Moreover, focussing on case-to-staff ratios exclusively as a measure of burden does not present an accurate assessment of workload. The caseload does not reflect the number of children and family members that each social worker is servicing.

Finding: The Committee finds that caseloads of departmental lawyers continues to be too high. Staff attorneys carry caseloads in excess of one-hundred per attorney. The caseload precludes the availability of staff attorneys to act as a consultant to social workers. Furthermore, the Committee finds that staff attorneys are isolated by geographic location.



Finding: The Committee finds that although the Department's social workers are overburdened by their current caseloads, they are often expected to perform tasks that could be better carried out by non-social worker technical support staff.

Finding: The Committee finds that there is no career ladder within the Department of Social Services, that social workers doing the same work are often paid at different levels, and that there is no formal educational leave policy for social workers who wish to pursue a course of advanced study. This atmosphere has contributed to high staff turnover, especially among highly talented young professionals. This turnover affects continuity and quality of care for the clients of the Department.

Finding: The Committee finds that the high levels of staff turnover, particularly among social workers in urban offices, greatly affects the quality of care provided by the Department.

Finding: The Committee finds that the Department of Social Services has failed to provide its employees with a secure work environment. Moreover, many of the Department of Social Services area offices lack the rudiments of cleanliness and order. Area offices also lack the space to protect the confidentiality of clients. Despite the fact that the Department of Social Service deals with an often-time angry and hostile constituency, the Department has failed to provide for the security needs of its employees or constituency.

Finding: The Committee finds that social workers and their clients face enormous difficulties as they try to maintain communication over the Department's antiquated telecommunications system. Offices receive hundreds of telephone calls each day both from clients and employees calling from the field. Clients and employees experience extraordinary delays in completing a successful telephone call. Both clients and social workers are unable to reach area offices during emergencies.

Finding: The Committee finds that Department of Social Service staff are at significant personal risk in the course of their work. Many Department of Social Services catchment areas comprise large geographic areas. Social workers must frequently travel great distances, often throughout high crime areas, in a virtual communication blackout.

Finding: The Committee finds that the Department of Social Services' training of social workers is inadequate.



Finding: The Committee finds that locating the Department's ombudsman function and the foster care review function within the structure of the Department itself represents a conflict of interest.



## RECOMMENDATIONS

Recommendation: The Committee recommends the creation of an independent Children's Services Commission to be composed of one full-time commissioner and four part-time commissioners. Commission members will be nominated by a Children's Services Advisory Board, composed of the state Secretary of Health and Human Services; the chief justice of the juvenile court; the chief justice of the probate court; the commissioner of probation; a district attorney, selected by the combined state's district attorneys; the president of the Massachusetts Bar Association; the secretary of Education; the director of the Massachusetts Association of Social Workers; the director of the Massachusetts Coalition for Human Services; and, the director of the Massachusetts Association for Professional Foster Care. The secretary of Administration and Finance shall act as chairman of the Advisory Board and convene the Board within twenty-one days of enactment to begin the process of selecting the members of the Commission. Should the Advisory Committee be unable to nominate candidates for gubernatorial consideration, the governor shall appoint interim Commission members.

The Commission members will be appointed by the governor for five-year staggered terms.

The Commission chairman, who must be able to demonstrate proficiency in organizational planning and management operations, must hold a Ph.D. in a relevant discipline. The other commission members should include a pediatrician with special knowledge and training in physical and sexual abuse; a Ph.D. developmental psychologist with expertise in child development; an attorney with substantial knowledge of family law and child welfare law; and a Ph.D. social worker.

The Commission would oversee the planning and operation of the department of social services, the department of youth services, the office for children, and an office of Inspector General for Children's Services. Each department head would serve at the pleasure of the Commission.

The Commission would be responsible for establishing policy for each of its departments, including issues of care and protection, children-in-need-of-services, adoptions, education (i.e. inter-community funding and preservation of continuity), residential policies. The Commission would also be responsible for the inspection and licensing of facilities which provide services to children (day care, foster care, all out-of-the home placement services).

The chairman of the independent Children's Services Commission would report directly to the governor. The Commission would be funded through a dedicated line-item. The Commission would, however, be able to approve the transfer of funds among its various departments.

During its first six months of existence the Commission would be charged with identifying the costs that the Commonwealth currently utilizes to service the needs of



the children (and their families) who are under the care and protection of the state. Each state agency currently dealing with such children would be directed to provide the Commissioners with an accurate accounting of expenditures which presently serves their constituent populations. The Committee would have the authority to compel the production of such information from any agency currently under the secretariat of health and human services.

During its second six months of existence, the Commission would be charged with providing a needs assessment of all services that it deems are required to appropriately serve the children (and their families) who are under the care and protection of the state. The Commission would then prepare a budget recommendation for submission by the governor during the next fiscal year.

The Commission should have one year to chart its priorities and budgetary requirements. The governor, and the general Court, would then reduce the budgets of the other agencies accordingly. From that time on, the psychological, psychosocial, medical and educational needs of children under the care and protection of the Commonwealth will be met by the independent Children's Service Commission.

During its first eighteen months of existence the Commission shall 1) establish care and protection teams in each service area, 2) require that Department of Social Service area directors assume, as a part of their official duties, a position of leadership and advocacy for children's services within their area, 3) develop, for each service area, an adequate number of group homes to service the population under the jurisdiction of the department. Whenever possible, adolescent foster children should be located in group homes which allow them to maintain ties to their community social and cultural networks. The Commission would also be expected to develop a sufficient number of group homes so that care and protection service teams are able to avoid hasty placements that lead to multiple placements.

Throughout its tenure the Commission must develop a service methodology which integrates common approaches for the Department of Social Services and the Department of Youth Services. The Commission would be expected to explore common policies which recognize that the principle contributor to the Department of Youth Services system are people who have been in the custody of the Department of Social Services. As many of the psychological, medical and social service requirements of the CHINS population are identical to those required by constituents of the Department of Social Services, the Commission would be expected to develop strategies that are preventative in nature, and relevant to its entire core population.

Finally, the Commission would be expected to require that the director of the departmental service area (each individual Department of Social Service area office) be responsible for developing the budgetary requirements of his or her area office. The area director would also be expected to assume the role of chief advocate in his or her area. This melding of budgetary and community responsibility would create an atmosphere of shared responsibility, linking the child and the community through the area director.

Recommendation: The Commonwealth should immediately embark upon a multi-



year longitudinal examination of the effectiveness of foster care. This study, which should be constructed in a manner similar to the so-called Framingham Heart Study, should determine whether or not the programs and policies of the Commonwealth relative to child welfare interventions are beneficial.

**Recommendation:** The General Court should remove the responsibility for the children in state's custody from the Executive Office of Health and Human Services and place it in a temporary independent Children's Services Commission directly responsible to the governor. This Commission would oversee the functions currently administered by the Department of Social Services, the Department of Youth Services and the Office for Children.

**Recommendation:** The Department of Social Services should establish a system of assessment teams with professional expertise in a variety of disciplines. These teams would be available on a consultative basis to each Department of Social Services area office and to the judicial system at all points in the investigation, assessment and review processes.

**Recommendation:** The multi-disciplinary service plan, as commissioned by the Department of Social Services, should have the authority of a contract between the state and the foster child, and the service recommendations enumerated in that plan should override service constraints placed by health insurance coverage. However, as managed care has played a significant role in state efforts to contain costs, each multi-disciplinary assessment team should have a managed care specialist to insure that team recommendations are coordinated with health insurance providers.

**Recommendation:** Each investigatory unit within Department of Social Service area offices should include persons whose investigatory and forensic capabilities have been certified by the district attorney whose jurisdiction includes said area office. Funding for this training and certification function should be provided to each district attorney's office. The Commonwealth's district attorneys should jointly develop a common training program for child welfare investigators.

**Recommendation:** The time-line for the conduct of an initial investigation should increase from ten calendar days to ten working days.

**Recommendation:** The Department of Social Services should expand its Criminal Offender Records Information (CORI) system check on individuals in the foster and group care systems to include as extensive a review as is currently permitted by judicial interpretation of that statute.



Recommendation: The Department of Social Services should implement a regular random sample review of reports that it screens and of records that are screened by private contractors to determine the appropriateness of those screening decisions.

Recommendation: In order to ensure that children within the foster care system have adequate legal representation throughout their tenure in foster care, the Committee on Public Counsel Services (CPCS) should hire attorneys who would be responsible for representing the children at every stage in their interactions with the foster care system, including advocating at the periodic foster care reviews to ensure that the service plan developed for the child is implemented appropriately. Said counsel should have the authority to return to court and the court should have the power of enforcement over said care plan.

Recommendation: In the event that the Department of Social Service changes the placement of a foster child, the legal representative of the foster child should be provided with a written statement, from the Department, outlining the current address of said child, and the reason(s) for said change.

Recommendation: Until the judicial system is able to assure that all child welfare courts have available an adequate number of judges to hear these cases in a timely manner, the Committee recommends that the judiciary develop three pilot programs to expedite the resolution of care and protection hearings. One such pilot should be established in Bristol County and should focus on the use of "masters" drawn from the ranks of qualified family/child welfare attorneys. Other pilot programs, using recall judges to expedite such hearings should be implemented in Plymouth County and Berkshire County.

Recommendation: In as much as court rooms and court buildings are, to a large extent, unused after four o'clock in the evening and on weekends, the Committee recommends to the judicial branch, that additional sessions be provided to child welfare cases to insure that prescribed time limits are being met. The governor, the principal nominator of judicial positions, and the office of the chief justice, should develop a plan to implement such additional sessions. The role of the governor in this expansion is to nominate judicial candidates on the clear understanding that they will be asked, and expected, to preside over these new sessions. The role of the chief justice is to seek adequate resources to support these extra sessions.

Recommendation: The area director should have the primary responsibility of insuring that adequate resources, including foster families, are obtained and available throughout his or her catchment area and should devote a significant percentage of his or her work day to



developing such resources.

**Recommendation:** The primary responsibility for recruitment of foster parents should lie at the area office. Budget and staff should be assigned to recruitment responsibilities.

**Recommendation:** The Department of Social Services should establish a number of group homes for children coming into the substitute care system. These homes should be designed around a number of different models, including homes for emergency placements, homes for use during the diagnostic and assessment phase of a case, and homes for longer-term placement for children who would otherwise be inappropriate for traditional foster care, i.e. children who compose the CHINS population. The Committee further recommends, however, that the Department not use group home settings for the placement of infants or otherwise fragile children.

**Recommendation:** All families who take in foster children (including so-call "kinship care") should receive training from the Department of Social Services within sixty days of taking in a foster child.

**Recommendation:** No future foster child placement should be made into a family which houses more than six children, four of whom may be foster children.

**Recommendation:** Every foster child's initial assessment and service plan should include an educational component which, if necessary, should include the completion of a CORE evaluation.

**Recommendation:** The Department of Education should, through their program for "state wards," pay the full share of educating foster children through a monthly tuition reimbursement mechanism. If the child comes into foster care placement from a different locality, the costs associated with that child's education would be deducted on a per student basis from the Chapter 70 aid allocation of the town of residence of the child's biological family.

**Recommendation:** The independent Children's Services Commission should, in cooperation with the Department of Education, develop a method of assessing the costs of the special education needs of the foster care population and an equitable allocation of those costs. The placement of each foster child should be made in conjunction with the needs that are reflected in each child's Individual Education Plan (IEP). The IEP should follow the child regardless



of future changes in each child's placement.

Recommendation: The Department of Social Services should make every effort to insure that the continuity of education is preserved, including designing systems around group homes to allow children to remain in their familiar school, aggressive recruitment of local foster care, and the funding and provision of transportation networks to allow foster children to return to their school of origin.

Recommendation: The area offices of the Department of Social Services should be designed so as to provide sufficient space for secure supervised visits and to provide adequate security for staff.

Recommendation: Direct service employees of the Department of Social Service should be classified as members of Group Four for purposes of calculation of retirement benefits.

Recommendation: The Department of Social Services should purchase cellular telephones and beepers for family resource workers, social workers, and investigators.

Recommendation: The Department of Social Services should establish a "career ladder" for social workers to provide opportunities for professional development and advancement. Conducting investigations and coordinating assessments are two areas which should require advanced training and which would offer opportunities for professional growth.

Recommendation: The Department of Social Services should reduce the caseloads of ongoing social workers so that no individual worker has a caseload of more than 18 cases, and that the statewide average does not exceed 15 cases per full-time equivalent employee. Caseload distribution should also include the number of children in each family and other factors which affect the complexity of the case.

Recommendation: The Department of Social Services should reduce the caseloads of ongoing departmental attorneys, so that no individual attorney has a caseload of more than 50 cases, and that the statewide average does not exceed 40 cases per full-time equivalent employee. Departmental legal staff should be apportioned among the area offices and permanently assigned to individual area offices.

Recommendation: The Department of Social Services should hire a number of social worker



technicians and other administrative support staff for each area office to assist social workers in such tasks as completing paperwork and providing transportation.

**Recommendation:** The Department should establish a child welfare training institute located at a public institution of higher education. This institute should make available, through a system of video conferencing, regular training opportunities for all departmental staff.

**Recommendation:** The independent Children's Services Commission should create and staff an Office of the Inspector General for Children's Services. This office should undertake regular performance audits, program evaluations, and financial audits, of both internal programs and service contractors. The current functions of the Department of Social Services' foster care review, its ombudsman office, and its fair hearing office should be placed under the aegis of the Office of the Inspector General for Children's Services.

